

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

CIVIL ACTION NO. 1:12-cv-11817-FDS

NICHOLAS COX,
Plaintiff,

v.

SERGEANT DETECTIVE PAUL
MURPHY, POLICE OFFICER SEAN
FLAHERTY, DETECTIVE BRIAN
SMIGIELSKI, and THE CITY OF
BOSTON,
Defendants.

DEFENDANT CITY OF BOSTON'S MOTION TO FILE UNDER SEAL

Defendant City of Boston (the City), moves this Honorable Court for leave to file the following documents and associated exhibits under seal: (1) The City's Local Rule 56.1 Statement of Facts and Supporting Exhibits; and (2) the City's Memorandum of Law in Support of its Motion for Summary Judgment.

The City states the following in support of this motion:

1. The Protective Order in this matter provides that information marked "Confidential" can *only* be submitted to the Court under seal and that "[s]hould a party wish to use Confidential Information in motion practice, this party must move the court for permission to file said Confidential Information under seal." [Dkt. No. 24 ¶¶ 3, 8.]
2. The City's Local Rule 56.1 Statement of Facts and Supporting Exhibits as well as the City's Memorandum of Law in Support of its Motion for Summary Judgment contain and reference Internal Affairs and personnel records Defendants have marked as "Confidential" under the Protective Order in this matter. [Id.]

3. The Internal Affairs and personnel records¹ consist of sensitive information to which Defendants claim a right of privacy. This sensitive and private information is neither readily available to the public nor readily determinable from other sources.
4. The Internal Affairs records also consist of sensitive information regarding citizen complaints to which Defendants claim, and the Protective Order recognizes, a right of privacy.
5. The Internal Affairs and personnel records also include sensitive criminal record information about Plaintiff Nicholas Cox and non-parties.
6. The City will file the un-redacted papers with the Court
7. The City will serve un-redacted copies of their summary-judgment papers on the Plaintiff.
8. To minimize the impact of sealing information, the City will submit redacted versions of its summary-judgment papers into the Court's electronic filing system.

WHEREFORE, Defendant City of Boston moves this Honorable Court to allow The City's Local Rule 56.1 Statement of Facts and Supporting Exhibits as well as the City's Memorandum of Law in Support of its Motion for Summary Judgment to be filed under seal.

Respectfully submitted,
DEFENDANT,
City of Boston,

By:

Eugene L. O'Flaherty, Corporation
Counsel

/s/ Amy Bratskeir

Amy Bratskeir, BBO# 662034
John J. Boscia, BBO # 679357
Assistants Corporation Counsel
City of Boston Law Department
Room 615, City Hall

¹ The personnel records are protected and exempt from disclosure under the Massachusetts' Public Records Statute. See Wakefield Teachers Ass'n v. School Committee of Wakefield, 431 Mass. 792 (2000) (personnel information is absolutely exempt from disclosure under public records statute).

Boston, MA 02201
(617) 635-4017 (Bratskeir)
(617) 635-4031 (Boscia)
Amy.Bratskeir@boston.gov
John.Boscia@boston.gov

Date: 6/19/2015

7.1(a)(2) Certification

The undersigned conferred with Counsel for the Plaintiff about this motion yesterday but was unable to narrow the issues.

Date: 6/19/15

/s/ Amy Bratskeir
Amy Bratskeir

Certificate of Service

I certify that this document, filed through the ECF system on the date listed below, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and by first class mail to any non-registered participants.

Date: 6/19/2015

/s/ Amy Bratskeir
Amy Bratskeir